Date of Hearing: March 19, 2025

ASSEMBLY COMMITTEE ON INSURANCE
Lisa Calderon, Chair
AB 597 (Harabedian) – As Amended March 10, 2025

SUBJECT: Public insurance adjusters

SUMMARY: Prohibits a public insurance adjuster from charging a policyholder based on any amount paid to the policyholder by the insurer for claims or coverages to which the adjuster's services do not apply or paid before the contract between the policyholder and the public adjuster was initiated, and prohibits a public adjuster from charging more than 15% of the applicable amount paid by the insurer to the policyholder if the claim pertains to a state of emergency or catastrophic disaster. Specifically, **this bill**:

1) Prohibits a written contract for a public insurance adjuster's services (henceforth, "public adjuster contract" or "contract") from basing compensation on any amount paid by the insurer to the policyholder prior to the date of the contract, and from basing compensation on an insurer's payment for specific claims or coverages to which the services do not apply.

2) If the claim pertains to a catastrophic disaster or a state of emergency, as defined, prohibits a public insurance adjuster from charging the policyholder more than 15% of the amount paid by the insurer to the policyholder after the date of the contract for specific claims and coverages to which the services apply.

3) Specifies that the limitation imposed by 2), above, applies to all claims relating to a policy of residential property insurance, as defined, and to a policy of commercial property insurance involving policy limits of $10 million or less.

4) Requires the description of services and the statement of compensation in the public adjuster contract to describe the specific claims and coverages to which the services apply, and to which the compensation applies, respectively.

5) Requires the public adjuster contract to include a statement in at least 10-point type in the immediate proximity of the statement of compensation, as follows: "For claims pertaining to a catastrophic disaster or state of emergency declared by the President of the United States or the Governor of California, the total cost for the services performed pursuant to this contract shall not exceed 15 percent of the amount paid by the insurer after the effective date of this contract for claims and coverages to which those services apply."

6) Requires the public adjuster contract to include a clear and conspicuous statement in at least 10-point type in immediate proximity to the statement specified in 5), above, indicating whether or not the claim or claims to which the services apply pertain to a catastrophic disaster or state of emergency, as defined.

7) Applies the existing right for the policyholder to cancel a public adjuster contract within five days without penalty if it pertains to a catastrophic disaster, to circumstances in which the contract pertains to a state of emergency, and makes conforming changes to the required disclosure provided in advance of the policyholder signing the contract.

8) Entitles the policyholder to void or rescind the public adjuster contract without time limit if the public adjuster solicited employment in violation of the prohibition on solicitation during a loss-producing occurrence or in violation of the prohibition on solicitation between the hours of 6 p.m. and 8 a.m.

9) Clarifies that existing limitations on solicitation for employment by public insurance adjusters during a loss-producing occurrence or between the hours of 6 p.m. and 8 a.m. apply to solicitations directed toward the policyholder and also toward the policyholder's representative.

EXISTING LAW:

1) Defines "public insurance adjuster" to mean a person who, for compensation, acts on behalf of or aids in any manner, an insured in negotiating for or effecting the settlement of a claim or claims for loss or damage under any policy of insurance covering real or personal property or any person who advertises, solicits business, or holds themself out to the public as an adjuster of those claims and any person who, for compensation, investigates, settles, adjusts, advises, or assists an insured with reference to claims for those losses on behalf of any public insurance adjuster. (Insurance Code, Section 15007; all further references to code refer to the Insurance Code unless otherwise specified.)

2) Prohibits a person from engaging in the business of public insurance adjusting, or from representing oneself as a public insurance adjuster, unless they are licensed by the Insurance Commissioner, and imposes a civil penalty of $10,000, or, for a willful violation, $25,000, for unlicensed practice. Also imposes a civil penalty of $100 per day, not to exceed a maximum amount of $5,000, for failure to comply with a cease and desist order issued by the Commissioner for unlawful practice. (Section 15006)

3) Requires an applicant for a license to act as a public adjuster to meet specified requirements, including:

   - Be at least 18 years of age. (Section 15011(a))
   - Have at least two years' experience in the handling of loss claims under insurance contracts. (Section 15011(c))
   - Maintain an office in the State of California with public access during regular business hours. (Section 15011(d))
   - Pass an exam given by the Insurance Commissioner in regard to property loss adjusting. (Section 15011(e))
   - Post a $20,000 surety bond. (Section 15011(f))
   - Not have committed acts or crimes constituting grounds for denial of licensure, as specified. (Section 15011(b))

4) Prohibits contracts for the services of public adjusters from containing provisions that do any of the following:

- Allow the public adjuster's fee to be collected when money is due from an insurer but not yet paid, or allow the public adjuster to collect the entire fee from the first payment issued by the insurer, rather than as a percentage of each payment. (Section 15027(c)(1))

- Require the policyholder to authorize an insurer to issue a payment only in the name of the public adjuster. (Section 15207(c)(2))

- Impose late fees or collection costs on the policyholder. (Section 15027(c)(3))

5) Prohibits a public adjuster from charging a fee, commission, or other valuable consideration that causes the policyholder to receive less than the amount paid to the policyholder by the insurer prior to the date of the written contract between the policyholder and the public adjuster. (Section 15027(b)(7))

6) Prohibits public adjusters from soliciting a client for employment during a loss-producing occurrence, and specifies that a loss-producing occurrence continues to exist when any of the circumstances that caused the loss are present at the property, emergency responders are present at the property, or an evacuation order is still in effect at the property. (Section 15027(d))

7) Prohibits public adjusters from soliciting a policyholder for employment or initiating contact with a policyholder between the hours of 6 p.m. and 8 a.m., unless requested by the policyholder. (Section 15027(e))

8) Prohibits public adjusters from soliciting a contract for residential properties that are included in an area subject to a catastrophic disaster until seven calendar days have elapsed from the conclusion of the loss-producing occurrence. (Section 15027.1)

9) Prohibits a public adjuster from using any form of contract other than one that has been approved by the commissioner (Section 15027(f)) and contains several specified provisions, including provisions that do all of the following:

   - Allow the client to cancel the contract by written notice to the public adjuster within three business days of signing the contract and receiving a copy of the contract, and include specific language to that effect. (Section 15027(f)(1) & (4))

   - Include the statement "WE REPRESENT THE INSURED ONLY," as specified. (Section 15027(f)(2))

   - Disclose the percentage of the policyholder's claim or other fee that the licensee will charge for services. (Section 15027(f)(3))

10) Notwithstanding 9), above, provides that, if a property loss is included in an area that is subject to a catastrophic disaster, as defined, the policyholder may cancel a contract with a public adjuster within five calendars of signing it and being provided a copy, rather than three business days. (Section 15027(y))

11) Defines "catastrophic disaster" to mean an event that results in large numbers of deaths and injuries; causes extensive damage or destruction of facilities that provide and sustain human

needs; produces an overwhelming demand on state and local response resources and mechanism; causes a severe long-term effect on general economic activity; and severely affects state, local, and private sector capabilities to begin and sustain response activities. Further specifies that a catastrophic disaster shall be declared by the President of the United States or the Governor of the state or district in which the disaster occurred. (Section 15001(c))

12) Defines "state of emergency" to mean the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, electromagnetic pulse attack, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the Public Utilities Commission. Excludes conditions resulting from a labor controversy or conditions resulting from enemy attack, or the probable or imminent threat of enemy attack. (Government Code, Section 8558(b))

FISCAL EFFECT: Unknown.

COMMENTS:

1) *Purpose*: According to the author, "Homeowners should feel secure in the aftermath of a disaster, knowing that those meant to help them are acting in their best interest. AB 597 strengthens consumer protections by ensuring that public insurance adjusters operate with fairness and transparency. When disaster strikes – whether through wildfire, earthquake, or storm – policyholders deserve clear contracts, reasonable fees, and ethical treatment. This bill is a safeguard for Californians during their most vulnerable moments by establishing clear limits on public adjuster fees, ensuring contracts are transparent and understandable, and preventing aggressive business practices that take advantage of disaster survivors. By closing loopholes and reinforcing ethical standards, AB 597 ensures families can focus on rebuilding their lives, not fighting hidden fees or misleading agreements. AB 597 will ensure increased clarity, fairness, and integrity in the insurance claims process when people need it most."

2) *What are public adjusters?* Claims adjusters, generally, are central to the operation of an insurer – they investigate and evaluate claims, decide whether an insurance company must pay a claim, and, if so, how much the insurance company must pay to satisfy the claim. This frequently requires on-site physical inspection in a property damage claim. Following a loss, there are three types of claims adjusters that a policyholder may encounter:

   - <u>Staff adjusters</u>: employees of the insurance company who evaluate the claim on their behalf. Staff adjusters often handle routine claims.

   - <u>Independent adjusters</u>: contractors hired by the insurance company to handle claims as-needed, especially following catastrophes where there are particularly high numbers of claims.

- Public adjusters: contracted by the policyholder to represent their interests in the claims investigation, evaluation, settlement, and negotiation process. Though they must be licensed to conduct business in the state of California, public adjusters, despite their name, are *not* government employees nor do they operate on behalf of the government.

The insurance claims process can be complex, especially for those who have little or no experience with insurance. The methodology behind evaluating the claim is often opaque, and claims adjusters operating on behalf of the company, while ideally impartial, can be perceived as minimizing the claim settlement on behalf of the insurer. Public adjusters are intended to serve as an advocate for the policyholder, conducting the often frustrating process of interacting with the insurer, independently evaluating the claim, and seeking to maximize the recovery of a fair settlement. Typically, their fee for service is a percentage of the settlement recovered from the insurer on behalf of the policyholder. This means, for example, that if the insurer pays out $100,000 for the claim, the public adjuster may receive 10% of that settlement, with the other $90,000 being received by the policyholder.

The services of public adjusters can be especially critical in the wake of catastrophic events, where traumatized and preoccupied victims lack the bandwidth to pursue their claims and advocate for themselves. In the absence of public adjusters, victims may instead seek representation from attorneys, who tend to have less direct experience with the claims process and in many cases cost considerably more to retain. During these vulnerable times, however, victims of loss can also be especially vulnerable to exploitative behavior.

Insurance Commissioner Ricardo Lara, who sponsors the bill, argues:

> Although PAs serve an essential role in negotiating on behalf of consumers, aiding them in securing additional funds under an insurance policy, a few bad actors take an exorbitant percentage – upwards of 30% or more – while also retroactively charging commission on funds that were paid to an insured prior to the PA entering into a contract with the insured. Unfortunately, it is only a matter of time before the next natural disaster will impact Californians and leave them vulnerable to revictimization. As we move forward, we must protect victims of disasters from price gouging and other unfair practices that redirect essential funds away from those who need them most.

3) *Excessive fees, ambiguous contracts, and unethical solicitation practices*: The California Department of Insurance (CDI) identifies several types of unscrupulous behaviors by public adjusters for which they have received complaints. For instance, CDI has identified ambiguous contracts that do not specify the claims or coverages for which the adjuster is providing service, leading to attempted recovery of fees from settlements they did not negotiate. Similarly, according to CDI, "[i]n extreme cases, adjusters have even tried to collect a percentage of insurance money that the homeowner already received before the adjuster was hired – taking payments they did not negotiate." While existing law prohibits solicitation by public adjusters in the immediate aftermath of a catastrophe, CDI also reports attempts to circumvent this prohibition by instead soliciting a victim's family member, attorney, or agent during the prohibited timeframe.

   This bill seeks to prevent these behaviors by, among other things, requiring the contract to clearly specify the claims and coverages to which a public adjuster's services, and compensation, apply, and prohibiting fees based on money received before the contract was signed. The bill would also clarify that solicitation prohibitions apply to a policyholder's representative in addition to the policyholder.

4) *Public adjuster fee caps in other states*: Though Section 15027(b)(7) of the Insurance Code provides that "a public adjuster's fee, commission, or other valuable consideration shall not cause the insured to receive less than any amount paid to the insured by the insurer prior to the date of the written contract between the insured and the public adjuster," California is one of 24 states that does not otherwise explicitly cap the fees that can be charged by public adjusters under any circumstances.

   All other states - with the exception of Alabama and Arkansas, which prohibit public adjusters from practicing in their states entirely, and Louisiana, which requires compensation to be based on an hourly wage - impose some form of cap on public adjuster fees, the structures of which vary considerably. Six states cap fees on all public adjuster contracts regardless of whether the claims pertain to a catastrophe, with caps ranging from 2.5% of the amount paid to the policyholder by the insurer for settlements less than $25,000 in Delaware to 33.3% in Georgia.

   This bill would not cap public adjuster fees under normal circumstances, but if the claim(s) for which the public adjuster provides service pertains to a catastrophic disaster or state of emergency, would impose a fee cap of 15% of the amount paid to the policyholder by the insurer for those claims. Eight states (Colorado, New Mexico, North Carolina, North Dakota, Rhode Island, Virginia, West Virginia, and Wisconsin) do not cap public adjuster fees under normal circumstances, but do impose caps for catastrophic events. All of these states cap fees at 10% of the amount paid to the policyholder by the insurer.

5) *Public adjusters and money recovered before the date of the contract*: In nearly all of the states that only cap fees on claims pertaining to catastrophes, the 10% fee cap is based on the total amount recovered on the claim for which the public adjuster provided service, including amounts recovered on that claim by the policyholder in advance of contracting for the services of the public adjuster. Public adjusters argue that this is a reasonable approach because in order to advocate for recovering any additional payment, they must perform a full inventory of the claim to determine what additional payment may be owed.

   In Virginia, however, the fee cap for catastrophes limits fees to 10% of the amount paid to the policyholder by the insurer *after* the date of the contract with the public adjuster ("No public adjuster shall charge a fee, commission, or other valuable consideration based, in whole or in part, on an amount paid to the insured by the insurer prior to the date of the written contract between the insured and the public adjuster." (Code of Virginia Title 38.2, Section 1845.14(D)) Florida, which caps fees under normal circumstances at 20% and those related to catastrophes at 10%, also prohibits the imposition of fees by public adjusters based on payments received before the date of the contract.

   This bill would use substantially similar language to Virginia to cap fees at 15% of the amount paid *after* the date of the written contract in California. The bill's author argues that this approach is most appropriate, as, "in practice, this would stop adjusters from targeting a homeowner who has received an initial check and taking a percentage of that pre-existing payment."

6) *State of emergency vs. catastrophic disaster*: The terms "state of emergency" and "catastrophic disaster" are often used interchangeably, but have distinct definitions under California law. Generally speaking, the threshold for the declaration of a catastrophic disaster is greater than for a state of emergency, as it requires large numbers of deaths and injuries, extensive damage or destruction of critical infrastructure, severe long-term effects on economic activity, and overwhelming demand on state and local response resources. In contrast, a state of emergency can be declared any time conditions exist which, "by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities" of any single municipality "and require the combined forces of a mutual aid region or regions to combat."

   Existing law permits a policyholder to cancel a contract with a public adjuster within five days, rather than three days, if the claim pertains to a catastrophic disaster. This bill would expand this provision to include states of emergency. The bill would also apply the 15% cap on fees to claims pertaining to either a catastrophic disaster or a state of emergency.

7) *Drafting error*: In the proposed Section 15027(c)(6), the bill in print provides that the 15% cap on fees for claims pertaining to catastrophic disasters and states of emergencies "shall apply to all claims relating to ***both*** of the following:

   (A) A policy of residential property insurance as defined in subdivision (a) of Section 10087.

   (B) A policy of commercial property insurance that is subject to Section 675.5 and involving policy limits of ten million dollars ($10,000,000) or less."

   The use of the word "both" here [emphasis added] could be interpreted to apply the fee cap only to a claim on property covered by both a policy of residential property insurance and a policy of commercial property insurance, rather than to property covered by *either* of these types of policies. This interpretation would mean the provision would apply only in a remarkably limited number of circumstances, and is likely not the author's intent. Should the bill pass out of this committee, the author should consider amending the bill to change the word "*both*" to "*either*" in this provision.

8) *Urgency*: The bill in print does not have an urgency clause. As victims of the devastating Pacific Palisades and Eaton wildfires, two of the costliest disasters in California history, seek to recover and rebuild, they would likely benefit from the protections provided by this bill. Should the bill pass out of this committee, the author may wish to consider adding an urgency clause to ensure the bill can take effect immediately.

9) *Previous and pending legislation*:

   - AB 637 (Flora, 2025) would prohibit a person from making false or misleading commercial communications that give the impression of being made by or approved by a government entity or not-for-profit organization following a declared state of emergency.

   - SB 240 (Dodd, Ch. 502, Stats. 2019) required the CDI to develop an informational bulletin regarding California laws related to property insurance policies, including those governing declared emergencies, to distribute to all insurers, adjusters, and claimants suffering losses in a declared emergency, and made several changes to CDI's responsibilities with respect to claims adjusters.

- SB 488 (Block, Ch. 833, Stats. 2016) revised the eligibility requirements and regulations applicable to public adjusters, including: defining several licensure requirements, prohibiting public adjusters from soliciting new business while the loss-inducing event is ongoing, permitting the policyholder to cancel a contract within five days of signing the contract after a catastrophe, and prohibiting the fee charged by a public adjuster from resulting in the policyholder receiving less compensation from the insurer than before the public adjuster was retained.

REGISTERED SUPPORT / OPPOSITION:

Support

American Property Casualty Insurance Association
Insurance Commissioner Ricardo Lara / California Department of Insurance
Pacific Association of Domestic Insurance Companies

Opposition

None on file.

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